

FARRIS MATHEWS BRANAN
BOBANGO HELLEN & DUNLAP, P.C. RECEIVED

ATTORNEYS AT LAW

MEMPHIS DOWNTOWN
One Commerce Square, Suite 2000
Memphis, Tennessee 38103
Telephone 901-259-7100
Facsimile 901-259-7150

HISTORIC CASTNER-KNOTT BUILDING
618 CHURCH STREET, SUITE 300
NASHVILLE, TN 37219

(615) 726-1200 telephone
(615) 726-1776 facsimile

2004 DEC 20 AM 11:55
MEMPHIS EAST
1100 Ridgeway Loop Road, Suite 400
Memphis, Tennessee 38120
Telephone 901-259-7120
Facsimile 901-259-7180
T.R.A. DOCKET ROOM

Charles B. Welch, Jr.
cwelch@farrismathews.com

Reply to
Nashville Office

December 20, 2004

Chairman Pat Miller
Attn: Sharla Dillon
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, Tennessee 37243-0505

VIA HAND DELIVERY

RE: Motion To Reconsider Or In The Alternative Motion for Intermediate Relief (Docket No. 04-00335)

Dear Chairman Miller:

Please find enclosed an original and 14 copies of our Motion in the above referenced docket. Please date and stamp a copy for our records.

Thank you for your assistance regarding this matter. If you have any questions, or if I may be of further assistance, please do not hesitate to contact me.

Very truly yours,

FARRIS MATHEWS BRANAN
BOBANGO HELLEN & DUNLAP, P.C.

Charles B. Welch, Jr.

Charles B. Welch, Jr

CBW/ks

**BEFORE THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE**

IN RE:

**PETITION OF KING'S CHAPEL)
CAPACITY, LLC FOR CERTIFICATE OF)
CONVENIENCE AND NECESSITY TO)
SERVE AN AREA IN WILLIAMSON)
COUNTY, TENNESSEE KNOWN AS)
ASHBY COMMUNITY)**

DOCKET NO. 04-00335

**MOTION TO RECONSIDER OR IN THE ALTERNATIVE MOTION FOR
INTERMEDIATE RELIEF**

COMES NOW King's Chapel Capacity, LLC ("KCC"), by and through undersigned counsel of record, and hereby moves pursuant to T.C.A. § 4-5-317 that the Tennessee Regulatory Authority (hereinafter "TRA") reconsider its Order, dated December 17, 2004, holding the proceedings in the above styled docket in abeyance until a Williamson County Chancery Court decides contractual issues between Tennessee Wastewater Services, Inc., (hereinafter "TWS") and KCC. In the alternative, KCC hereby moves for intermediate relief, requesting that the TRA approve a third-party wastewater service company to complete construction of the facility and to provide wastewater service while this docket is held in abeyance.

As grounds for its Motion to Reconsider, KCC would urge this Authority to reconsider and address the delay to lot owners and costs associated with the abeyance of this matter. There are forty-eight (48) lot owners who cannot close on their property, much less begin any construction until sewer service is established for the subdivision. Additionally, not being able to move forward with the development of the subdivision

costs KCC approximately \$25,000 per month. These costs and delays to KCC and the lot owners are overly burdensome and are worth further consideration.

In the alternative, KCC hereby requests intermediate relief from the TRA and moves that the TRA allow a third-party wastewater provider to finish construction and provide service for the subdivision at issue in this docket. Generally, it is a standard and relatively uncomplicated procedure for a developer to obtain wastewater service. However, in this matter, due to a contract dispute between TWS and KCC, there has been such a delay beyond what any developer would normally prepare. This delay threatens the marketability of the property and the reputation of the subdivision. Further, the costs associated with further delay are unduly burdensome upon KCC. In an effort, to protect the consumers of the lots and the marketability of this subdivision, KCC requests that the TRA approve a third-party wastewater company to finish construction and to provide wastewater services, if necessary, until the Williamson County Chancery Court decides the contractual rights of TWS and KCC.

Based on the above information, Petitioner respectfully requests that the TRA reconsider its Order to hold this docket in abeyance or in the alternative, requests that the TRA approve a third-party wastewater provider to complete construction of the wastewater facility in the subdivision and to allow them to provide wastewater service while this docket is held in abeyance.

Respectfully submitted,

FARRIS MATHEWS BRANAN
BOBANGO HELLEN & DUNLAP, PLC

Charles B. Welch, Jr.
Charles B. Welch, Jr.

Kristi Stout
Attorneys for Petitioner
618 Church Street, Suite 330
Nashville, TN 37219
(615) 726-1200

CERTIFICATE OF SERVICE

The undersigned hereby certified that the foregoing document has been served upon the following person/s by hand delivery or by United States Mail, with proper postage prepaid thereon.

Henry Walker, Esquire
Boult, Cummings, Conners & Berry, PLC
1600 Division Street, Suite 700
P O. Box 340025
Nashville, TN 37203-00259

Richard Militana
Militana & Militana
5845 Old Highway 96
Franklin, Tennessee 37064

This 20th day of December 2004.

Charles B. Welch
Charles B. Welch, Jr.